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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 141103917-5223-02]

RIN 0648-BE60

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Black Sea Bass Fishery; Framework Adjustment 8

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing regulations consistent with Framework Adjustment 8 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. This action allows the black sea bass recreational fishery to begin on May 15 of each year, instead of May 19, to provide additional fishing opportunities earlier in the year, unless otherwise modified by further rulemaking.

DATES: Effective *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: Copies of the Supplemental Information Report and other supporting documents for this action are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. These documents are also accessible via the Internet at: <http://www.greateratlantic.fisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978)

281-9218.

SUPPLEMENTARY INFORMATION:

General Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively under the provisions of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) developed by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, in consultation with the New England and South Atlantic Fishery Management Councils. This rule applies to black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35 E. 13.3' N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, North Carolina) northward to the U.S./Canada border.

The FMP is managed jointly by the Council and Commission. States manage black sea bass within 3 nautical miles (4.83 km) of their coasts under the Commission's plan. The applicable Federal regulations govern vessels and individual anglers fishing in Federal waters of the exclusive economic zone (EEZ), as well as vessels possessing a Federal black sea bass charter/party vessel permit, regardless of where they fish. The recreational fishery is essentially managed using four tools: The recreational harvest limit; the open season; minimum fish size; and a recreational angler bag limit. The recreational harvest limit is established based on the specifications formula in the FMP. The open season, minimum fish size, and bag limit are collectively referred to as the “recreational management measures,” which are designed to ensure that the recreational harvest limit is not exceeded. Because of the way we collect recreational fisheries data along the Atlantic coast, recreational fishing years are divided into 2-month waves: Wave 1 (January/February); Wave 2 (March/April); Wave 3 (May/June); Wave 4 (July/August);

Wave 5 (September/October); and Wave 6 (November/December). In the last several years, the black sea bass recreational season has opened during Wave 3. Additional background information on the standard recreational management process was provided in the proposed rule for this action (79 FR 78022; December 29, 2014), and is not repeated here. Additional background information on recreational fishing data can be found on the Marine Recreational Information Program's website (<http://www.st.nmfs.noaa.gov/recreational-fisheries>).

Final Action

This action revises the start date of the black sea bass recreational fishery by four days to begin on May 15 instead of May 19, unless otherwise changed by subsequent rulemaking.

In recent years, the black sea bass recreational harvest limit has been achieved or exceeded. Because of this, starting the season on May 15 (i.e., earlier in Wave 3) requires the Council to compensate by shortening the Wave 5 season, when fishing effort is equivalent to Wave 3, by four days, in addition to other potential management changes, to ensure that the recreational harvest limit is not exceeded in 2015. The Council made the necessary recommendations on other management measures, including shortening Wave 5 to accommodate the earlier season opening, at its December 2014 meeting. The Commission is also preparing state-by-state management measures for the 2015 season in order to ensure the recreational harvest limit is not exceeded. Pending submission and review of the Council's and Commission's proposed recreational management measures, NMFS will implement further changes to the black sea bass recreational management measures in a subsequent rulemaking later this year.

Comments and Responses

Two comments were received on the proposed rule.

Comment: One commenter stated that the start date for the black sea bass season should not be changed to make the season longer.

Response: As described above, the Wave 5 season will be adjusted in a future rulemaking action, as recommended by the Council and Commission, to offset the extra days added to Wave 3, so the fishing season as a whole is not getting longer. Because of the timing of the normal recreational management measures rulemaking, in order have the change effective for fishing year 2015, we needed to separate the changes into two rulemakings.

Comment: A second commenter simply stated that black sea bass are delicious.

Response: NMFS agrees (see FishWatch at <http://www.fishwatch.gov>), but this comment is not directly relevant to the action.

Changes from the Proposed Rule

There are no changes from the proposed measures.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that this framework adjustment is necessary for the conservation and management of the black sea bass fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that

this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a Final Regulatory Flexibility Analysis was not required and none was prepared.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 18, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 648.146 is revised to read as follows:

§ 648.146 Black sea bass recreational fishing season.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may only possess black sea bass from

May 15 through September 18, and October 18 through December 31, unless this time period is adjusted pursuant to the procedures in § 648.142.

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